one would clearly realize that the presently pending claims of the above-identified application do not set forth all the various aspects of the present invention that are illustrated. In other words, the claims, contrary to the Examiner's assertions are not necessarily directed to each and every aspect of the present invention illustrated in Figures 1-42.

Furthermore, the Examiner has failed to provide a prima facie case that the alleged illustrated embodiments have a species relationship. For example, the Examiner apparently alleges that a laminated MEMS wafer as illustrated in Figure 2 is a species of a method of making a protected laminated wafer as illustrated in Figure 42. The Applicants respectfully assert that these two examples do not have a species relationship.

However, assuming that the Examiner can actually demonstrate a species relationship between these various aspects of the present invention as illustrated in Figures 1-42 of the originally filed specification, the Applicants respectfully submit that claims 1-145 read upon the alleged fourth species illustrated by Figures 18-25 of the originally filed specification.

For example, with respect to independent claim 1, Figures 18-25 illustrate a method for making a protected MEMS structure. More specifically, Figure 20 illustrates preparing a MEMS wafer having a plurality of MEMS structure sites thereon; Figure 20 illustrates mounting, upon the MEMS wafer, a spacer layer, the spacer layer being perforated in areas corresponding to locations of the MEMS structure sites on the MEMS wafer; and Figure 21 illustrates mounting, upon the spacer layer, a wafer cap to produce a laminated MEMS wafer, the spacer layer having a height to prevent electrostatically induced damage to the MEMS wafer.

In another example, with respect to independent claim 31, Figures 18-25 illustrate a method for making a protected MEMS structure. More specifically, Figure 20 illustrates preparing a MEMS wafer having a plurality of MEMS structure sites thereon; Figure 20 illustrates mounting, upon the MEMS wafer, a spacer layer, the spacer layer being perforated in areas corresponding to locations of the MEMS structure sites on the MEMS wafer; and Figure 21 illustrates mounting, upon the spacer layer, a wafer cap to produce a laminated

MEMS wafer, the spacer layer having a height to prevent damage to the MEMS structures due to the wafer cap coming into physical contact with the MEMS wafer.

In a further example, with respect to independent claim 50, Figures 18-25 illustrate a method for making a protected MEMS structure. More specifically, Figure 20 illustrates preparing a MEMS wafer having a plurality of MEMS structure sites thereon; Figure 20 illustrates mounting, upon the MEMS wafer, a spacer layer, the spacer layer being perforated in areas corresponding to locations of the MEMS structure sites on the MEMS wafer; and Figure 21 illustrates mounting, upon the spacer layer, a wafer cap to produce a laminated MEMS wafer, the spacer layer having a height to prevent electrostatically induced damage to the MEMS wafer and to prevent damage to the MEMS structures due to the wafer cap coming into physical contact with the MEMS wafer.

In another example, with respect to independent claim 81, Figures 18-25 illustrate a laminated MEMS wafer including a MEMS wafer having a plurality of MEMS structure sites located thereon (Figure 20); a spacer layer mounted upon the MEMS wafer, the spacer layer being perforated in areas corresponding to locations of the MEMS structure sites on the MEMS wafer (Figure 20); and a wafer cap mounted upon said spacer layer to produce a laminated MEMS wafer (Figure 21). The spacer layer has a height to prevent electrostatically induced damage to said MEMS wafer (Figure 20).

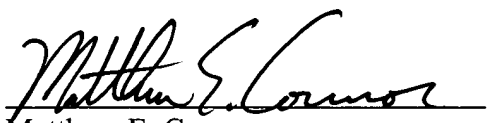
In another example, with respect to independent claim 96, Figures 18-25 illustrate a laminated MEMS wafer including a MEMS wafer having a plurality of MEMS structure sites located thereon (Figure 20); a spacer layer mounted upon the MEMS wafer, the spacer layer being perforated in areas corresponding to locations of the MEMS structure sites on the MEMS wafer (Figure 20); and a wafer cap mounted upon said spacer layer to produce a laminated MEMS wafer (Figure 21). The spacer layer has a height to prevent damage to the MEMS structures due to said wafer cap coming into physical contact with said MEMS wafer (Figure 20).

In a last example, with respect to independent claim 109, Figures 18-25 illustrate a laminated MEMS wafer including a MEMS wafer having a plurality of MEMS structure sites located thereon (Figure 20); a spacer layer mounted upon the MEMS wafer, the spacer layer being perforated in areas corresponding to locations of the MEMS structure sites on the MEMS wafer (Figure 20); and a wafer cap mounted upon said spacer layer to produce a laminated MEMS wafer (Figure 21). The spacer layer has a height to prevent damage to the MEMS structures due to said wafer cap coming into physical contact with said MEMS wafer and to prevent electrostatically induced damage to said MEMS wafer (Figure 20).

In view of the above discussion, the Applicants, elect, with traverse, claims 1-145, which read upon the alleged fourth species as illustrated in Figures 18-25 of the originally filed specification.

Accordingly, in view of all the reasons set forth above, the Examiner is respectfully requested to reconsider and withdraw this election of species requirement. Also, an early indication of allowability is earnestly solicited.

Respectfully submitted,



Matthew E. Connors
Registration No. 33,298
Samuels, Gauthier & Stevens
225 Franklin Street, Suite 3300
Boston, Massachusetts 02110
Telephone: (617) 426-9180
Extension 112

MEC/MJN/mjn
Attachments